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REMARKS

Claims 1-16 and 21-25 are pending in the application.

Claims 1-16 and 21-25 are rejected under 35 U.S.C. 112, ¶1, as failing to comply with the enablement requirement.

Claims 1, 6, 9, 12-16, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi (U.S. Patent US 6,466,348 B1) in view of Badr (U.S. Patent US 6,567,194 B1).

Claims 2-5, 7-8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi (U.S. Patent US 6,466,348 B1) in view of Badr (U.S. Patent US 6,567,194 B1) and further in view of Darcie (U.S. Patent US 4,701,904).

Each of the various rejections is overcome by various amendments and arguments that are presented.

Entry of this Amendment is proper under 37 CFR 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or is simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., to just avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

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Also, since a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewriting to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

REJECTIONS

35 U.S.C. 112

Claims 1, 6, 9, 12-16 and 21-25

Claims 1, 6, 9, 12-16 and 21-25 are rejected under 35 U.S.C. 112, ¶1, as failing to comply with the enablement requirement for containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In particular, the Examiner finds that the specification does not describe or suggest how to combine "the channels of the first downstream optical signal" with "the first upstream optical signal" to provide at least one valid copy of each channel.

Applicants respectfully traverse the rejection.

The support for the rejected claims is found at least on page 15, lines 13-18:

When a fault that results in disruption of the SRC exists, the channels arriving from the east should be combined with those arriving from the west in such a way that one valid copy of each channel is available. This mechanism is similar to that used in SONET path protection, for example, in SONET UPSR rings. The same holds true for the interaction between the control subsystem 64 and the optical subsystem 62 with respect to the control channel.

The combining is enabled by this paragraph. The way to combine two optical signals traveling on two rings in the opposite direction is performed similar to that used in SONET path protection

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such as in SONET UPSR. This mechanism of combining signals is well known to an ordinary person skilled in the art. Thus, an ordinary person skilled in the art should be able to make and use this invention including combining channels of two signals using his/her knowledge of SONET UPSR.

35 U.S.C. §103

Claims 1, 6, 9, 12-16, and 21-25

Claims 1, 6, 9, 12-16, and 21-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi (U.S. Patent US 6,466,348 B1) in view of Badr (U.S. Patent US 6,567,194 B1).

Applicants have amended the independent claims to include a control device, wherein in response to a fault that results in disruption of the control information, the control device causes the channels of the first upstream optical signal to be combined with the channels of the first downstream optical signal to provide thereby at least one valid copy of each channel, and in response to no fault that results in disruption of the control information, the control device selects either the first upstream optical signal or the first downstream optical signal based on a relative quality of the optical signals.

None of the cited references teaches or suggest that the control device combines signals when there is a fault that results in disruption and selects a signal based on relative quality when there is no fault that results in a disruption.

By contrast, Izumi shows in column 18, lines 11-54 that the control unit monitors a level of a signal actually transmitted that has been amplified by an optical amplifier and adopts the optical amplifiers to maintain a gain parameter. Badr discloses combining optical signals from different optical paths onto a common path in a protected optical communication network. Izumi and Badr are silent with respect to the features described above.

Thus, Izumi and Badr, singly or in combination, fail to teach or suggest applicants' invention as a whole.

Since all of the dependent claims that depend from the currently amended independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable over Izumi in view of Badr. Therefore, claims 1, 6, 9, 12-16 and 21-25 are allowable over Izumi and Badr under 35 U.S.C. §103.

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Claims 2-5, 7-8 and 10-11

Claims 2-5, 7-8, and 10-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Izumi (U.S. Patent US 6,466,348 B1) in view of Badr (U.S. Patent US 6,567,194 B1) and further in view of Darcie (U.S. Patent US 4,701,904).

Each ground of rejection applies only to dependent claims, and each is predicated on the validity of the rejection under 35 U.S.C. 103 given Izumi in view of Badr. Since the rejection under 35 U.S.C. 103 given Izumi in view of Badr has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Darcie supplies that which is missing from Izumi in view of Badr to render the amended independent claims obvious, these grounds of rejection cannot be maintained..

Therefore, applicants' claims 2-5, 7-8 and 10-11 are allowable under 35 U.S.C. §103.


CONCLUSION

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 530-9404 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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Eamon J. Wall
Registration No. 39,414
Attorney for Applicants

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808